

# **Exhibit 1**

# MOTLEY RICE

ATTORNEYS  
AT LAW  
LLC

June 1, 2004

**VIA FACSIMILE & REGULAR MAIL**

Ashraf W. Nubani, Esquire  
BUSCH & NUBANI, P.C.  
5029 Backlick Road  
Suite A  
Annandale, VA 22003

Re: *Burnett, et al. vs. Al Baraka, et al.*  
Defendant: Islamic Assembly of North America

Dear Mr. Nubani:

We are in the process of responding to the Motion to Dismiss filed by you on April 9th, 2004, on behalf of your client Islamic Assembly of North America. In the course of reviewing your motion, it has become apparent that this motion to dismiss is not timely in that it does not comply with the case procedures established by Judge Robertson and adopted by the MDL Court. See CMO #1, dated 3/3/04, attached. Therefore, we write to you to request that you withdraw the aforementioned motion to dismiss and, instead, accept a Motion for a More Definite Statement in accordance with F.R.C.P. 12(e) and CMO #1. In that you are relatively new to this case, please allow me to explain the rationale for this request.

At the outset of the Burnett case, the Plaintiffs amended their complaint three times within a three-month period, to add parties and allegations. At the D.C. Court's direction, Plaintiffs were advised not to continue seeking leave to amend each time additional parties were named. Judge James Robertson, to whom the case was initially assigned, stated during a hearing on October 1, 2002, "we cannot just have continuing

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amendments of a complaint." October 1, 2002 hearing, at p.3. I can send you a copy of the transcript if you wish.

Following this hearing, on October 7, 2002, the D.C. Court issued Case Management Order No. 1 to deal with the need for addition and removal of parties:

Subsequent to the filing of the Third Amended Complaint, Plaintiffs may without further leave of Court add or remove parties by listing their names (and numbers) and filing the lists as supplemental pleadings under Rule 15(d)). Leave of Court must be sought before making any other changes to the pleadings, whether by amendment or supplementation.

CMO #1 at ¶3, also attached.

As you see, it was at the Court's direction that Plaintiffs have submitted additional names of parties under Rule 15(d) rather than seek additional amendments to the Third Amended Complaint. So, while your client (Islamic Assembly of North America) is not named in the Third Amended Complaint, however, this is not the result of anything negligent or nefarious. The Islamic Assembly of North America (or "IANA"), unlike the other clients you currently represent, was added pursuant to this procedure in May of 2003 after CMO #1 was entered in October of 2002.

I trust this informs your understanding as to the procedure that has been in place, and why there are no particularized allegations as the IANA in the Third Amended Complaint. May I suggest that this issue be dealt with most efficiently, and in accordance with the MDL Court's Order, which adopts Judge Robertson's procedure, through a consent motion for a more definite statement under F.R.C.P. 12(e) which could be promptly provided to you. (*See also* July 25, 2003 Order by Judge Robertson regarding Rule 12(e) motions practice generally.) May I also suggest that we are willing to accommodate a reasonable extension of time for you to respond to the more

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June 1, 2003  
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definite statement and to re-file IANA's motion to dismiss. This is the practice and procedure that has been in place for other Defendant's in IANA's position, that is, added to Burnett after November 22, 2002.

In light of the provisions of Judge Casey's Case Management Order, filing a consent motion for a more definite statement under F.R.C.P. Rule 12(e), and allowing you time to respond and re-file IANA's motion is both the logical and appropriate manner in which to proceed without wasting the Court's resources or counsel's time. Let me know how you wish to proceed, as the Burnett Plaintiffs' response to your current motion is due June 4th, 2004. If I do not hear from you, I will have no choice but to file a more definite statement as an attachment to our response to IANA's motion to dismiss.

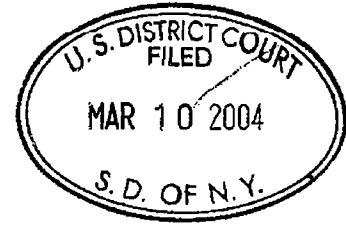
Please contact me with any questions, and I look forward to hearing from you promptly.

Yours truly,

A handwritten signature in black ink, appearing to read 'JW Flowers', with a long horizontal flourish extending to the right.

Jodi Westbrook Flowers

JWF/crh  
Attachments  
cc: Harry Huge  
Andrea Bierstein  
Justin Kaplan



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE: TERRORIST ATTACKS  
OF SEPTEMBER 11, 2001

03 MDL No. 1570 (RCC)

**ORDER**

*This Document Relates to: All Actions*

Richard Conway Casey, U.S.D.J.

**Case Management Order No. 1**

Electronic Filing/Attorney Admissions

1. All attorneys who have been admitted to this Court, either for all purposes or *pro hac vice* for purposes of this case, shall complete and file a CM/ECF attorney registration form by March 5, 2004. Forms can be found on the Court's website at [www.nysd.uscourts.gov](http://www.nysd.uscourts.gov).
2. All attorneys who wish to be admitted for purposes of this case shall send a motion to be admitted *pro hac vice* to John Sacco at U.S. District Court for the Southern District of New York, 500 Pearl Street, Room 249, New York, NY 10007. In addition to the documentation required by Local Civil Rule 1.3, attorneys wishing to appear *pro hac vice* must also include with their motion a check for \$25.00 payable to the Clerk of the Court and a completed CM/ECF attorney registration form. *Pro hac vice* motions should be submitted by March 15, 2004.
3. Peter Kahn, Esq., from the law firm of Williams & Connolly, has offered to compile for the Court a list of all participating attorneys' email addresses. All attorneys who wish to receive correspondence regarding this case are directed to submit their email addresses to Mr. Kahn via email or fax. Mr. Kahn's fax number is (202) 434-5245 and his email address is [pkahn@wc.com](mailto:pkahn@wc.com). If you have questions about this process, you can reach Mr. Kahn by phone at (202) 434-5045.

Briefing Schedule for Motions to Dismiss

4. In order to facilitate the electronic filing of motions to dismiss, the motion schedule set forth at the March 1, 2004 conference is amended as follows: moving papers shall be filed on March 19, 2004; responses shall be filed by May 14, 2004; and reply papers shall be submitted no later than May 28, 2004. Motions shall be filed electronically and need not be fully briefed when filed; however, as per Judge Casey's individual practice rules,

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courtesy copies of fully briefed motions shall be filed with chambers, along with a diskette containing an electronic version of the documents.

Amended Complaints and Supplemental Pleadings

5. Plaintiffs may, without further leave of court, add or remove parties by supplemental pleadings under Rule 15(d). The supplemental pleading shall provide a list of the additional parties and indicate the action to which they are being added. Similarly, a filing removing parties shall indicate the parties being removed and the action or actions from which they are being removed. A filing which adds a party that has not been named in any of the consolidated actions shall provide a separate listing of such parties. Leave of court must be sought before making any other changes to the pleadings, whether by amendment or by supplementation.
6. A named defendant as to whom the complaint contains no allegations may move for a more definite statement and the motion will be granted.

Consolidation

7. The following cases shall be consolidated into 03 MDL 1570: *Federal Ins. Co v. Al Qaida*, 03 Civ. 6978 (RCC); *Burnett v. Al Baraka Inv. and Dev. Corp.*, 03 Civ. 5738 (RCC); and *Barrera v. Al Queda Islamic Army*, 03 Civ. 7036 (RCC). The parties may move to sever these actions at the completion of discovery.

Dated: March 3, 2004  
New York, New York

SO ORDERED.



Richard Conway Casey, U.S.D.J.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

THOMAS BURNETT, SR., et al., :  
 :  
 Plaintiffs, :  
 :  
 v. : Civil Action No. 02-1616 (JR)  
 :  
 AL BARAKA INVESTMENT AND :  
 DEVELOPMENT CORPORATION, et al., :  
 :  
 Defendants. :

CASE MANAGEMENT ORDER NO. 1

1. Plaintiffs' Second Amended Complaint, which was lodged with the clerk on September 10, 2002, is deemed to have been filed on that date. The Second Amended Complaint will remain on file with the court in the form in which it was lodged (CD-ROM) but will not be electronically filed.

2. Plaintiffs may have leave to file a Third Amended Complaint no later than October 25, 2002. In the Third Amended Complaint, each named plaintiff and each defendant shall be assigned a number (P1, P2, etc.; D1, D2, etc.). Unnamed or John Doe parties shall be designated "Additional plaintiffs \_\_\_\_ - \_\_\_\_" and "Additional defendants \_\_\_\_ - \_\_\_\_," using the highest number of plaintiffs and defendants that counsel expect to name.

3. Subsequent to the filing of the Third Amended Complaint, plaintiffs may without further leave of court add or remove parties by listing their names (and numbers) and filing the lists as supplemental pleadings under Rule 15(d). Leave of

court must be sought before making any other changes to the pleadings, whether by amendment or by supplementation.

4. The caption in the court's docket will not be changed to reflect the names of parties added by the Second or Third Amended Complaints or by any subsequent amendments to or supplementation of the pleadings, nor will the names of added or withdrawn parties be listed in docket entries, except that each additional defendant will be listed upon the issuance of summons for that defendant.

5. Motions for leave to appear pro hac vice will be granted only upon condition that the lawyer admitted, or at least one member of the lawyer's firm, undergo CM/ECF training, obtain a CM/ECF username and password, and agree to file papers electronically. No court papers will be mailed to any lawyer.

JAMES ROBERTSON  
United States District Judge